



Planning Board  
**Town of Westford**  
55 Main Street  
Westford, MA 01886

**Record of Proceedings and Notice of Decision**  
**Application PB 1504 SP MCP**

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**Applicant:** Douglas C. Deschenes, Attorney

**Property Owner:** Richard DeFelice, 540 Groton Road, LLC & Newport Materials, LLC

**Property Location:** 540 Groton Road, Westford, MA 01886

**Zoning District:** Industrial A (IA)

**Assessors Map and Parcel:** Map 048 Parcel 0011, Lots 0234, 0248 & 0249

**Application Submitted:** January 5, 2015

**Public Hearing Dates:** January 21, 2015  
February 12, 2015  
March 2, 2015  
March 16, 2015  
April 6, 2015  
April 13, 2015  
April 14, 2015

**Planning Board Vote:** Denied (1-4-0 to approve, therefore a denial)

**Filed with Assistant Town Clerk:** April 24, 2015

**Appeal Period Ends:** May 14, 2015  
(20 days after filed with Town Clerk)



**DECISION**

At its meeting on **April 14, 2015**, the Planning Board voted 1-4-0 to APPROVE a **Special Permit** for a **Major Commercial Project**, thereby **DENYING** the petition for lack of attaining a supermajority (4 out of 5) vote. The application was submitted by Attorney Douglas C. Deschenes in response to a remand from Land Court for the case Newport Materials, et al v. Planning Board of Westford, et al. 10 MISC 429867. The application was for the addition of a bituminous concrete manufacturing facility (hereinafter "Asphalt Plant") at 540 Groton Road (also known as 20 Commerce Way) to other uses. The Board authorized the Planning Staff to reduce a Decision to writing with benefit of input from Town Counsel, and to submit said Decision with the Office of the Town Clerk no later than close of business on April 24, 2015.



## BACKGROUND

1. In 2009 – 2010, the Planning Board considered applications from the Applicant to construct an Asphalt Plant at 540 Groton Road. The Board held 21 hearings over the course of a year and in April 2010 denied the Site Plan Review and two Special Permit applications on the basis that the proposed plant did not qualify as a Light Manufacturing Use in accordance with the definition in the Zoning Bylaw (Section 10.2). That denial was appealed by the Applicant, and following 4 years of litigation at Land Court, including a 3-day trial in November 2013, a Decision was issued that sent the case back to the Planning Board.
2. Therefore, the current applications are being considered by the Planning Board on “remand” from Land Court in accordance with the Court’s decision for the case Newport Materials, et al v. Planning Board of Westford, et al. 10 MISC 429867 (LC Decision). In that Decision, the Land Court directed that “... *the Board’s assessment of any such resubmitted plans shall be made in accordance with the findings and rulings contained in this decision.*” (Decision, page 32). Therefore, the December 8, 2014 Court Decision, as well as a subsequent January 6, 2015 Order on the Board’s Motion for Clarification and the transcript of the January 6, 2015 hearing on that motion are incorporated into the Planning Board’s record.
3. In summary, the LC Decision held that the original proposal by the Applicant would not qualify as a Light Manufacturing use and therefore upheld the Board’s denial of the original applications on that basis. However, the Land Court identified modifications to the proposal that would, in the opinion of the Land Court, qualify the proposed asphalt plant as a Light Manufacturing use.
4. The Land Court further rejected the Applicant’s contention that the proposed Asphalt Plant would not require a Major Commercial Project (MCP) special permit, finding that the anticipated traffic generation from the proposal would itself trigger the requirement for a MCP special permit. Accordingly, the Land Court did not need to address the Board’s contention that a property with multiple uses must be treated as a whole (with all uses on the property and their attend traffic generation, parking and square footage being considered cumulatively) for purposes of determining whether a MCP special permit is required.
5. Under the LC Decision, the Applicant was directed to resubmit applications for Site Plan Review (SPR), Special Permit for Major Commercial Project (SP MCP) and Special Permit for Water Resource Protection Overlay District (SP WRPOD). In addition, the Applicants filed for a Stormwater Management Permit (SWM) under General Bylaw 147 and the Planning Board’s Rules and Regulations. The Applicant also filed an application for a Special Permit under Section 9.3 of the Zoning Bylaw. On January 16, 2015, the Applicant requested withdrawal of the Special Permit submitted to the Planning Board under Section 9.3.
6. As directed by the Court, the Applicant submitted a Variance application to the Board of Appeals for multiple principal uses on a lot. The Applicant also submitted a Special Permit application to the Board of Appeals for extension of non-conforming use under Section 3.6.2 of the Zoning Bylaw. The Applicant also filed an application for a Special Permit under Section 9.3 of the Zoning Bylaw to the Board of Appeals. On January 16, 2015, the Applicant requested withdrawal of the Special Permit application submitted to the Board of Appeals under Section 9.3. On January 16, 2015, the Applicant submitted to the Board of Appeals a request for a Variance from the term “quiet” in the definition of Light Manufacturing, as that term has been construed by the Land Court in the LC Decision, so that they might exceed the noise criteria in Section 9.3A, which sets maximum Noise levels.



7. In accordance with the LC Decision, the Applicant must obtain a SP MCP, even if they obtain a Variance to allow multiple principal uses on the lot and/or a Special Permit from the Board of Appeals to extend a non-conforming use.
8. In April of 2011, the Department of Environmental Protection (DEP) issued a Modified Clean Air Permit. The modified DEP permit was the result of a settlement between the Applicant and 47 Chelmsford residents. The DEP permit sets specific conditions including but not limited to:
  - a. Specific emission limits and pollution control devices for 4 different emission causing elements of the project (DEP page 6);
  - b. 60,000 tons of asphalt per month/300,000 tons per 12 month period;
  - c. Operational hours of 6:00 a.m. to 7:00 p.m. Monday through Saturday, and not between December 15 and March 15;
  - d. Requirements for noise studies after the plant is operational;
  - e. Requirements for testing of emissions with DEP personnel present 120 days after operational;
  - f. Specific performance measures relating to air quality and monitoring of air quality; and
  - g. Specific equipment and operational procedures.
9. The LC Decision directed the Applicant to resubmit a site plan application that addressed four factors, which are:
  - a. Incorporate sound attenuation barriers as recommended by the Applicant's acoustical expert;
  - b. Provide that there will be five or more employees at the project;
  - c. Request a Variance to operate more than one principal use on the site; and
  - d. Address the issue of the project's power source(s) and show the Board that the power source is only electric or is another power source that is "substantially noiseless and inoffensive".
10. The Land Court clarified at a hearing on January 6, 2015 that the Board has discretion to review the SP MCP and the SP WRPOD as allowed by state land use law and at that hearing the Court made clear that it was not ordering the Board to approve the Special Permits.
11. The Board of Appeals is not a party to the Land Court litigation and is NOT under the Land Court's jurisdiction for the pending applications for Variance and Special Permits.

## **PROJECT SUMMARY**

1. On January 5, 2015, the Applicant submitted applications for a Site Plan Review, a Special Permit relative to the Water Resource Protection Overlay District (WRPOD), a Special Permit for a Major Commercial Project (MCP), a Stormwater Management Permit and a Special Permit under Section 9.3 of the Zoning Bylaw for multiple uses. The applications included a narrative, a site plan, and technical information relating to the project.
2. Upon receipt of the applications, the first public hearing on the proposal was noticed in the Lowell Sun on January 7, 2015 and January 14, 2015. On January 9, 2015, notices were sent to abutting property owners within 300 feet of the subject site, which included both Chelmsford and Westford Residents.
3. On January 21, 2015, prior to the opening of any public hearings, the Applicant withdrew the application for Special Permit under Section 9.3 of the Zoning Bylaw. The Planning Board opened a concurrent public hearing for the two Special Permits, Site Plan Review and Stormwater Management Permit on January 21, 2015.



4. The Applicant seeks to construct an Asphalt Plant which is accompanied by an existing material processing yard and two rock crushers. These facilities are located in Westford on approximately 4 acres of a 115-acre site (approximately 92 acres located in Westford, 23 acres in Chelmsford). Twenty-two (22) acres are developed with a solar array which is leased by the Applicant to Nexamp/Carthartes Investments.
5. The subject property is accessed from Groton Road by a private way (Commerce Way) which is proposed to be developed as a 22-foot wide paved road. The Applicant's plans show the approximate location of a 20-foot wide emergency access way through an adjacent property (Fletcher Quarry) to Groton Road. No easement documents for the emergency access road were provided during the public hearing.
6. The proposed Asphalt Plant consists of the following components based on site visit and according to the March 26, 2015 plan set, Sheet SP Site Plan:
  - a. 12' x 36' Operator Control Center on skids;
  - b. Six 10' x 14' Cold Feed Bins with a loading ramp from the materials yard;
  - c. Conveyor belts between the bins, vibrating screener and the processing unit (Gencor 400);
  - d. 5' x 14' Vibrating screen between the bins and the Gencor 400;
  - e. Recycled Asphalt Product (RAP) stockpile and ramp in materials processing yard;
  - f. Seven (7) stockpile areas for bituminous concrete raw materials (sand, RAP, crushed stone with concrete bin walls;
  - g. Crushing Plant and Radial spreader with RAP stockpile (within fenced area);
  - h. Office trailer and storage trailer;
  - i. Gencor 400, a machine that receives the ingredients from conveyor belts, which is controlled remotely and mixes the products together;
  - j. An 86' conveyor belt that takes the mixed product from the Gencor 400 to the top of the storage silos;
  - k. Four (4) 200-ton silos (68' in height) that allow the hot asphalt to load into trucks that pull underneath where materials load into the trucks from the top;
  - l. Tank Farm with two 30,000 gallon indirect fired Asphalt Cement (AC) vertical tanks with unloading pumps (36 feet in height);
  - m. HYCGO Gencor 100 hot oil heater with expansion tank stand;
  - n. Lawn area, landscaping;
  - o. Total of 8 parking spaces: 5 parking spaces and 1 handicapped space adjacent to Operator Control Center with ramps and sidewalk with curbing and 2 spaces near office trailer;
  - p. Security fence with four entrance/exit gates;
  - q. Two truck scales near the silos;
  - r. One water well with a water line to the fire cisterns;
  - s. Proposed utilities – natural gas line to provide fuel for the burners in the Gencor 400;
  - t. Site lighting with 20' fixtures around the asphalt manufacturing facility;
  - u. Dumpster;
  - v. Two 30,000 gallon fire cisterns;
  - w. Ground mounted signs including visitor, truck and directional signs;
  - x. Stormwater management facilities such as water quality swales; and
  - y. A 10,000 gallon aboveground storage tank for Number 2 fuel oil.
7. Plan Sheet OSP Overall Site Plan shows that the proposed facility is 2.73 acres and is shown with a dashed line and does not include the materials processing yard. However, Attorney Douglas Deschenes' letter of April 13, 2015 notes **"Therefore, all areas shown inside the**



**fenced area are exclusively for the bituminous concrete facility.”** This statement contradicts plan sheet OSP, and confirms that as shown on Sheet SP, the proposed Asphalt Plant is the area within the fence and therefore the Crushing Plant and materials processing yard ***is included*** as part of the Asphalt Plant. Refer to Plan Sheet SP included in this decision.

8. The Planning Board had the benefit of two peer reviewers for the proposed project, James Barnes of Acentech, a sound expert, and Robert Michaud of MDM, a Professional Traffic Engineer.
9. The Planning Board considered the application in accordance with Sections 8.1, 9.3A, 9.4 of the Westford Zoning Bylaw and General Bylaw 147 and the Stormwater Rules and Regulations over the course of seven (7) public hearings, as listed above. At said hearings, an opportunity was given to all those interested to be heard in favor or opposition to said petition. During the course of the public hearing sessions, dozens of residential neighbors of the project site spoke in opposition to the project. On April 14, 2015, the Board voted to close the public hearing.
10. The written record contains additional materials including, but not limited, to the following information. The entire written record is made part of this record of decision.
  - a. Application materials;
  - b. Plan entitled “SITE PLAN ASPHALT MANUFACTURING FACILITY 540 GROTON ROAD (ROUTE 40) WESTFORD MASSACHUSETTS” prepared by LandTech Consultants Inc. dated April 6, 2009, with latest revision date of March 26, 2015 and containing the following sheets:
    - 1) Title Sheet
    - 2) Existing Conditions Plan
    - 3) Existing Conditions Plan
    - 4) Overall Site Plan
    - 5) Site Plan
    - 6) Construction Plan
    - 7) Construction Plan
    - 8) Construction Plan
    - 9) Site Utilities and Lighting Plan
    - 10) Erosion Control Plan
    - 11) Erosion Control Plan
    - 12) Details and Sections
    - 13) Details and Sections
    - 14) Details and Sections
    - 15) Storm Water Pollution Prevention Plan (SWPP)
    - 16) Pre-Development Drainage Map
    - 17) Post Development Drainage Map
    - 18) Proposed Plant Layout (by others)
    - 19) General Component Elevations (by others)
    - 20) Tank Farm – Plan and Side Elevations (by others)
    - 21) Emergency Access Easement Plan
    - 22) Entrance Modification Plan Last revised 4/9/15
  - c. Supplemental Data Report entitled “Asphalt Manufacturing Facility 540 Groton Road Westford, MA” prepared by LandTech Consultants, Inc. dated April 6, 2009.



- d. "Appendix G Stormwater Report "Asphalt Manufacturing Facility 540 Groton Road Westford, MA" prepared by LandTech Consultants, Inc., dated April 9, 2009, last revised October 27, 2009 30, 2014.
- e. "Acoustical Evaluation and Revised Acoustical Evaluation" prepared by Cavanaugh Tocci Associates (CTA) dated January 2, 2015, supplemented on January 23, 2015 and March 10, 2015.
- f. Selected Materials from 2009 – 2010 Planning Board hearings GENERAL CONTENT
  - Bituminous Asphalt Manufacturing Process
  - April 15, 2009 memo from Police Chief Thomas McEnaney
  - May 20, 2009 memo from Eric Fahle, Chair Conservation Commission
  - June 15, 2009 memo from Planning Board members Fred Palmer and Kevin Borselli, about site visit to Portsmouth, NH asphalt plant
  - July 16, 2009 letter from Douglas C. Deschenes regarding comments from Chelmsford residents and Chelmsford Board of Selectmen
  - July 16, 2009 responses to questions. Author unknown but appears to be from applicant
  - July 20, 2009 memo from Planning board member Dennis Galvin regarding site visit to Portsmouth, NH asphalt plant
  - July 31, 2009 letter from LandTech Consultants in response to Woodard and Curran peer review
  - October 30, 2009 letter from LandTech Consultants in response to Woodard and Curran peer review
  - October 30, 2009 letter from Douglas C. Deschenes answering questions raised at earlier public hearing
  - November 25, 2009 letter from Woodard and Curran Site Plan Review Letter #3
  - December 11, 2009 letter from Douglas C. Deschenes regarding current uses on the site
  - January 13, 2010 letter from Alicia Barton McDevitt, Assistant Secretary Executive Office of Energy and Environmental Affairs regarding petition for Fail-Safe Review
  - March 18, 2010 letter from Douglas C. Deschenes in response to questions from resident Don Boesel
  - March 31, 2010 letter from Douglas C. Deschenes in regarding mitigation
- g. Letter from Attorney Douglas C. Deschenes, regarding Supplemental Sound Information received February 10, 2015.
- h. Peer Review of Acoustical Evaluation" prepared by Acentech for the Town of Westford, dated February 12, 2015.
- i. "Traffic Impact Analysis, Proposed Bituminous Concrete Manufacturing Facility, Westford MA" prepared by Vanasse & Associates, Inc., dated February 20, 2015.
- j. Letter and supplemental Information from Attorney Douglas C. Deschenes, including Exhibits A through U, received March 10, 2015
- k. Transportation Peer Review Letter from Robert Michaud of MDM, received March 11, 2015
- l. Abbreviated Staff Notes for the Planning Board, March 12, 2015.



- m. Staff Report to Board of Appeals, March 12, 2015.
- n. Letter from Attorney Thomas Reilly and exhibits received March 30, 2015.
- o. Letter from Attorney Thomas Reilly regarding use of Executive Sessions, received March 30, 2015.
- p. Letter from Attorney Jonathan Silverstein and Joint Motion to Extend Remand, received March 30, 2015.
- q. Transcript of January 6, 2015, Land Court Hearing.
- r. Letter and supplemental information and revised plans from Attorney Douglas C. Deschenes, received March 27, 2015.
- s. Letter from Attorney Douglas C. Deschenes, requesting that the Planning Board grant permission for multiple principal uses on the site, received April 1, 2015.
- t. Acoustical Consulting Services, letter from Acentech regarding further sound analysis, received April 2, 2015.
- u. "DRAFT Issues for Consideration" dated April 6, 2015, from Planning Staff.
- v. Letter from Attorney Thomas Reilly regarding Issues for Consideration, received April 8, 2015
- w. Letter from Richard DeFelice, Newport Materials, received April 8, 2015.
- x. PowerPoint Presentation "Newport Materials" received April 8, 2015.
- y. Letter from Attorney Jonathan Silverstein, in response to Attorney Reilly's letter of April 8, 2015 received April 10, 2015
- z. Letter from Westford Public School Superintendent Everett V. Olsen Jr. received April 8, 2015.
- aa. Entrance Modification Plan, Land Tech Consultants, last revised April 9, 2015
- bb. DRAFT Special Permit MCP Decision – Approval, April 10, 2015.
- cc. DRAFT Special Permit MCP Decision – Denial, April 10, 2015.
- dd. DRAFT Site Plan Review Decision – Approval, April 10, 2015.
- ee. DRAFT Special Permit WRPOD Decision – Approval, April 10, 2015.
- ff. DRAFT Stormwater Management Permit – Approval, April 10, 2015.
- gg. A" Quantitative Assessment of Potential Health Risks Due to Operations of the Proposed Newport Materials Asphalt Plant, Westford MA," originally received by Planning Board December 29, 2009, received April 13, 2015 at the Planning Board hearing.
- hh. "Review of Greenman-Pederson, Inc. Traffic Study Evaluation of Newport Materials Trucking Sound" prepared by CTA, originally received by Planning Board June 11, 2009, received April 13, 2015 at the Planning Board hearing.
- ii. Memorandum to the Planning Board by Dennis Galvin, regarding Portsmouth Site Visit, originally received by Planning Board July 20, 2009, received April 13, 2015 at the Planning Board hearing.
- jj. Letter from Attorney Douglas C. Deschenes to the Board of Health and attachments, regarding response to Woodard and Curran mobile source emissions, received April 13, 2015 at the Planning Board hearing.
- kk. Letter from Attorney Douglas C. Deschenes, regarding the Draft Decisions, received April 13, 2015 at the Planning Board hearing.
- ll. Letter from Everett V. Olsen, Jr. regarding Miller School Air Quality, dated January 21, 2010, and received April 14, 2015.
- mm. Letter from Attorney Thomas Reilly regarding mitigation, received April 14, 2015.



- nn. Numerous (over 55) comments from the public, Town of Chelmsford Board of Selectmen in opposition to the Asphalt Plant.
- oo. One comment from a resident in support of the Asphalt Plant.

## FRAMEWORK OF DECISION

### 1. Land Court Remand

- a. The Planning Board (Board) considered the application for an **MCP Special Permit** under remand pursuant to the (LC Decision).
- b. While the Board issued approvals for the Site Plan Review, the Stormwater Management Permit and the Special Permit for Water Resource Protection District, these approvals are based upon the requirements and holdings of the LC Decision. The Board has not yet had the opportunity to appeal from the LC Decision, as final judgment has not entered in the litigation, and it does not relinquish its rights to appeal the LC Decision. Of particular note, but without limiting the foregoing, the Board notes that the LC Decision holds that the proposed use would constitute Light Manufacturing allowed (with an MCP Special Permit) in the IA Zoning District. The Planning Board does not concur with this holding but is obligated by the LC Decision to accept it for purposes of this remand.
- c. In its January 5, 2015, submittal the Applicant included *"All filings previously made to the Board associated with the above referenced permits are hereby incorporated by reference into this filing."* (Deschenes, cover letter January 5, 2015). Twelve days later (January 17, 2015 staff report) planning staff made its first request to the Applicant to submit information into this Board's record so that the Board would have information needed to make its decision, specifically, requesting that the Applicant identify important information because the previous record from April 2009 to April 2010 includes over 6,000 pages of material. On March 27, 2015, (70 days after the staff request) the Applicant submitted a list of 133 items it felt should be considered by the Board (Deschenes, March 27, 2015, Exhibit A). The documents included on this list range from a 1981 document to an April 2011 document. On March 30, 2015, Applicant submitted 169 pages of duplicate information that was already part of this Board's record (Reilly, March 30, 2015). Finally, on April 13, 2015, approximately 24 hours prior to the Board's closing of the hearing, the Applicant submitted a letter and specific reports and materials from the 2009 – 2010 Board hearings, a total of 162 pages of technical materials (Deschenes April 13, 2015). It is noted that a majority of the current Board's members were not on the Board during the 2009-2010 hearing sessions. Similarly, neither of the Board's current professional planning staff was employed by the Town at that time.

### 2. Major Commercial Project (MCP) Special Permit

- a. Section 9.3A of the Zoning Bylaw and other relevant sections of the Bylaw, including, but not limited to, Section 3.1.2 sets forth the regulatory framework for the MCP.
- b. An MCP is required **whenever one of the MCP criteria is triggered on a site**. For example, if a site has an existing 10,000 square foot building and the property owner wants to expand by another 10,000 square feet, this expansion requires an MCP because the total site would have 20,000 square feet, which exceeds the 15,000 square feet threshold, even though each segment of the project is under the 15,000 square foot threshold. In other words, the MCP thresholds apply to a property as a whole, and the various uses of that site may not be segmented into smaller individual projects to avoid MCP review.
- c. Therefore, the Board considers the entirety of the subject property within the Town of Westford as being subject to the MCP and the conditions thereof.



3. Materials processing is part of the proposed Asphalt Plant.
  - a. The materials processing facility, which recycles asphalt, brick and concrete, was approved as a USE by the Board of Appeals in 2009, and the RAP production portion of that use is an integral part of the proposed Asphalt Plant operations.
    - i. The Department of Environmental Protection Permit (DEP Permit) includes both the Asphalt Plant and the rock crushing and materials storage facility. DEP regulated these uses together, and it makes sense for the Board to do so as well.
    - ii. The site plan shows that the materials processing area and the asphalt plant are contained within a single fenced area and joined by internal driveways.
    - iii. There may be shared trips in which a truck delivering recycled asphalt for crushing at the materials processing facility may then be loaded with asphalt from the silos.
    - iv. The Applicant has represented that up to 50% of the Recycled Asphalt Product (RAP) used for manufacturing of asphalt will be provided from the materials processing facility. The DEP permit allows up to 40% of the materials that make up the final bituminous concrete (asphalt) product to be composed of RAP. Given that the Applicant has this material in hand at the materials processing facility, it is common sense to conclude that the Applicant will use this supply in the production of asphalt.
    - v. Asphalt manufacturing components such as sand, fine sand, aggregate and RAP are shown on the site plan in the materials processing yard area.
    - vi. The Asphalt Plant is designed to operate with RAP, which is manufactured in the materials processing facility and also other ingredients for asphalt such as sand, fine sand, and aggregate are stored within the materials processing yard area.
    - vii. The materials processing facility exists without benefit of a Site Plan Review (SPR). The materials processing plant did not receive a Site Plan Review (SPR) approval in 2009 from the Planning Board. Section 9.4.1 of the Zoning Bylaw states that *"The following types of activities and uses are subject to site plan review by the Planning Board. 1. Construction, exterior alteration, exterior expansion of a nonresidential or multifamily structure or tower, or change in use..."* Therefore SPR for the materials processing facility is required.
  - b. Attorney Douglas Deschenes' letter of April 13, 2015 notes, "Therefore, all areas shown inside the fenced area are exclusively for the bituminous concrete facility." This statement contradicts plan sheet OSP, and confirms that as shown on Sheet SP, the proposed Asphalt Plant is the area within the fence and therefore the Crushing Plant and materials processing yard **is included** as part of the proposed Asphalt Plant. Refer to Plan Sheet SP included in this decision.
4. Zoning relief required by LC Decision.

The LC Decision, as clarified by the Court at a Hearing on January 6, 2015, requires a Variance for multiple principal uses on the subject property. The Applicant submitted a petition for Variance to the Zoning Board of Appeals (BOA). On March 25, 2015, the BOA closed its public hearing and denied the Variance petition for multiple principal uses on one site. On March 31, 2015, the BOA voted to re-open its public hearing on the petition, so that this matter is still pending. The BOA's hearing is scheduled to be re-opened on May 6, 2015. The issuance of any approvals/permits by the Planning Board does not obviate the Applicant from securing the necessary Variance relief from the BOA.



**FINDINGS - Special Permit Criteria for Major Commercial Project – Section 9.3A:**

The Applicant failed to convince a supermajority of the Board that the project satisfied the performance criteria for a Major Commercial Project. In reaching the decision to deny, the opposing members based their decision, in whole or in part, on the following:

***Land Court Decision – Criteria relative to Light Manufacturing***

The Planning Board considered the following factors from the LC Decision and found that the Applicant had met the following tests as summarized in the LC Decision (page 32):

1. *Incorporate sound attenuation barriers as recommended by the Applicant's acoustical expert;*  
Applicant's revised plan set included a sound attenuation wall and sound source barriers as recommended by the Applicant's acoustical expert, though it should be noted that the Board's peer review acoustical engineer opined that the sound attenuation barrier protecting the western property line could cause the project to violate the applicable performance standard at the eastern property line.
2. *Provide that there will be five or more employees at the project;*  
Applicant provided an affidavit that there will be five or more employees at the project and the site plan accommodates 5 employees.
3. *Request a Variance to operate more than one principal use on the site;*  
Applicant applied for a Variance for more than one principal use on the site. While the Board of Appeals (BOA) did not approve the Variance, the BOA has decided to reopen the public hearing on the matter, which is scheduled for a May 6, 2015 hearing.
4. *Address the issue of the project's power source(s) and show the Board that the power source is only electric or is another power source that is "substantially noiseless and inoffensive".*  
Applicant provided additional information about the project's power source which the Board found to confirm (strictly within the construct of the LC Decision) that the proposed machinery is powered by electricity, although the fuel source of the plant is natural gas with Number 2 fuel oil as the backup fuel.

***Requested Waivers from Standards of 9.3A***

1. Applicant requested two waivers from the MCP standard 9.3A.4.2. Noise. Ambient Noise Level.  
*No person shall operate or cause to be operated any source of sound in a manner that creates a sound which exceeds 70 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use.*
  - a. The Applicant sought a waiver from the construction of the 35-foot high by 1,200 foot long wall and the performance standards. Specifically, the applicant requests the ability to cause sound that is 75dBA (and 32 dBA above ambient) at the westerly property boundary. The applicant made two waiver requests: 1) to not build the wall at all, and 2) to build an 8-foot wall.
  - b. **The Board voted 1-4-0 to grant the waiver not to construct any wall**, thereby denying the request. The Board determined that adequate protection of the adjacent property from the possible noise of the Asphalt Plant was needed and that submittal of the current property owner of said adjacent lands did not adequately protect that property in perpetuity. The Board noted that other quarries in Westford have been redeveloped under Chapter 40B as large residential housing developments and that other future commercial uses would be adversely affected by the noise levels generated by the Asphalt Plant. Furthermore, the Board

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determined that the attenuation of noise at the westerly boundary is required in order for it to be considered "Light Manufacturing".

- c. **The Board voted 1-4-0 to grant the waiver to construct an 8-foot wall**, thereby denying the request. The Board determined that adequate protection of the adjacent property from the possible noise of the Asphalt Plant was needed and that submittal of the current property owner of said adjacent lands did not adequately protect that property in perpetuity. The Board noted that other quarries in Westford have been redeveloped under Chapter 40B as large residential housing developments and that other future commercial uses would be adversely affected by the noise levels generated by the Asphalt Plant. Furthermore, the Board determined that the attenuation of noise at the westerly boundary is required in order for it to be considered "Light Manufacturing".

#### **9.3A.4 Standards.**

*The following standards shall apply to applications for special permits for Major Commercial Projects or Major Retail Projects:*

##### **1. Lighting.**

- A. *Shielding. All outdoor light fixtures shall be shielded so as to meet the goals of this Section.*
- B. *Light Trespass. Direct light from the light source is to be confined within the property boundaries.*

The Applicant shows "low sodium yard lights" on the site plan sheets and the lights are 20-foot high downward facing fixtures. While the Applicant did not provide an illumination lighting plan showing illumination levels, the Applicant states that the proposed project is located 1,400 feet from the public way (Groton Road) and 1,360 feet from the nearest residence. Because the location of the lighting is not visible from the public way, and the fact that there was no evidence presented to the contrary, nor did anyone or Board member raise a concern about light trespass or the need for further attention to lighting, **the Board found that this criterion is met.**

##### **2. Noise.**

- A. *Ambient Noise Level. No person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 70 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use.*

The Board found that there was insufficient information provided by the Applicant to demonstrate compliance with this criterion including, but not solely limited to, the following reasons:

1. Significant sound attenuation in the form of wall 35 feet high x 1200 feet long was proposed to meet the Land Court findings and performance standard to attenuate sound on the western property line. Additionally, the Applicant provided for sound attenuation at the source (i.e. sound barriers to be installed around/on the equipment).
2. The Applicant refused to provide critical noise information relating to the two (2) existing rock crushers on the lot. Therefore, the Board was without benefit of an accurate and thorough sound study, and lacked the requisite information so as to make an informed decision. The Applicant maintains that only the proposed Asphalt Plant is before the Board for consideration; however, the Major Commercial Project applies to the totality of a site, and use of the site may not be segmented so as to avoid review.
3. Plan Sheet OSP Overall Site Plan shows that the proposed Asphalt Plant is 2.73 acres and is shown with a dashed line and does not include the materials processing yard. However,



Attorney Douglas Deschenes' letter of April 13, 2015 notes ***"Therefore, all areas shown inside the fenced area are exclusively for the bituminous concrete facility."*** This statement contradicts plan sheet OSP, and confirms that as shown on Sheet SP, the proposed Asphalt Plant is the area within the fence and therefore the Crushing Plant and materials processing yard ***is included*** as part of the Asphalt Plant. Refer to Plan Sheet SP included in this decision.

4. One day prior to the Board's closing of the hearing, Applicant provided sound information about noise generated by the projected heavy truck traffic CTA June 11, 2009 letter. The Board did not have time for its acoustical expert to review this 29 page technical letter from the Applicant. The CTA letter states EPA regulatory maximums, *"For trucks manufactured after the 1986 model year, the maximum pass-by sound level must not exceed 83 dBA when measured 50 feet from the centerline of travel at a speed not more than 35 mph, and must not exceed 87 dBA for a speed greater than 35 mph."* The Board found that these federal maximums might allow for truck noise from the proposed Asphalt Plant that exceeds the Town's Zoning Bylaw standards. The Board further notes that there are residences located within 50 feet of the roadway that the proposed 250 additional vehicle trips (most of them heavy truck trips) would follow each day. This analysis was inadequate to address concerns related to vehicle noise:
  - This study assumed 40 mph operation for site vehicles on Groton Road, which would not be the case given site locus, along with acceleration factors for vehicles approaching the facility, or exiting the facility loaded and accelerating past residential properties;
  - Noise under full acceleration was not used as part of the analysis;
  - Many residences along this portion of Groton Road have limited setbacks from roadway pavement, increasing perceptions of noise emissions;
  - Overall vehicle noise modeling was not adequate, as it appears newer industry models exist with more detail on truck classification and acceleration models;
  - The 2009 CTA report on truck noise provided an analysis of the GPI traffic study, but the current Board considered a report by Vanasse and Associates; and.
  - Use of so-called "Jake Brakes" was an expressed concern by residential neighbors of the project and was not addressed by the Applicant.
4. There was extensive testimony from residents of the surrounding neighborhood that truck noise would be substantially detrimental to their quality of life. These residents described interference with their use and enjoyment of their properties from the existing materials processing facility (which is permitted up to 150 truck trips per day per the special permit issue by the ZBA), and described concerns regarding the effects of more than doubling (to 400) the number of heavy truck trips permitted to access the materials processing yard / Asphalt Plant each day. As perceived from abutting property boundaries, there was only **last minute information** provided from the Applicant in response to concerns about sound associated with proposed routine heavy truck traffic, either from within the subject property, or as trucks traveled along Groton Road (Route 40) and into the site. The last minute timing of the submittal to the Board did not allow the Board adequate time to review this information nor have the benefit of expert peer review of this technical data.
5. The Applicant represented at the public hearing that asphalt trucks exiting the facility would be 24-ton or less (less for smaller residential jobs). However, the submitted VAI study table shows a relative average that 25% of vehicles could be 32-ton trucks, which



appears to be a different vehicle classification than used in the previous studies that were submitted.

6. No vehicle noise analysis was presented for vehicles transferring raw materials from the neighboring property to site operations. The Applicant represented that up to 50% of raw materials could come from the neighboring property, which is much closer to residential properties on Russell's Way and neighborhood recreation fields on Russell's Way.
7. Respecting the Court's findings about noise measurements, the Board found that the easterly boundary was at +9 dBA above ambient (again, just considering the asphalt plant and not the associated crushers), and was not satisfied that the addition of noise from multiple rock crushers or heavy truck traffic would not cause noise levels at the easterly boundary to exceed the +10 dBA threshold. It should be noted that the acoustical experts testified that a 5dBA increase in sound pressure is "clearly perceptible", whereas a 10 dBA increase is perceived as a **doubling** of the ambient sound.
8. Sound attenuation for the westerly boundary could create reflective sound to the easterly property line, and per estimate of 3dBA additive, even with absorptive materials, and even without rock crusher noise added, this would be above the performance threshold.
9. Rock crusher(s) sound information was not provided, despite numerous requests by the Board and its acoustical engineer, but was noted in both the DEP permit as part of the operation, and should be considered as part of MCP review of the site in totality.
10. For the above reasons, the **Board found that the proposal does not meet this criterion.**

### 3. Landscaping.

- A. Street Buffer Strip.** *Except for a required sidewalk, a landscaped buffer strip at least twenty (20) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, evergreens and shade trees having a minimum four inches in caliper measured four feet from ground level planted at least every thirty (30) feet along the road frontage. Evergreens and shade trees shall be at least eight feet in height at time of planting.*

The subject site is 115 acres, and the proposed Asphalt Plant is 1,400 feet from the public way (Groton Road). There is a large wetland area and vegetation across most of the Site's Groton Road frontage. **The Board found that this criterion does not apply.**

- B. District Buffer Strip.** *A continuous landscaped buffer strip of at least ten (10) feet in width shall be provided and maintained in perpetuity between business and industrial districts and any residential districts and/or property lines. The landscape buffer strip shall be of a density to substantially screen the development in question from view, along the zoning district line in question. Plantings of various approved evergreen species are encouraged and shall be planted at a minimum height of six (6) feet.*

The site is bordered by Industrial A on all sides in Westford, and the Chelmsford Town Line. **The Board found that this criterion does not apply.**

- C. Large Parking Areas.** *Parking areas containing over 20 spaces shall have at least one shade tree per ten (10) parking spaces, such tree to be a minimum of 2½ inches in diameter and located either in the parking area or within 10 feet of it. At least 5% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands or plots.*

The proposed parking area includes parking for 6 cars. **The Board found that this criterion does not apply.**

- D. Fencing.** *Fencing may be allowed in lieu or in conjunction with plantings. Design and height of*



*such fencing, with accompanying landscaping, shall be subject to the approval of the Planning Board.*

The Applicant proposes six foot (6') high chain link fencing around the asphalt plant and a portion of the materials processing yard. Due to the disturbed nature of the site, and the lack of visibility from all but one abutting property owner (Fletcher Quarry), the Board found that the proposed fence is adequate. ***The Board found that this criterion is met.***

- E. Retaining Walls.*** *Retaining walls shall be constructed to a maximum height of four (4) feet. If site conditions require elevation changes of greater than four (4) feet, retaining walls shall be terraced and landscaped.*

The Applicant proposes retaining walls that are 6 feet in height which shall be designed by a duly licensed Professional Engineer. The Applicant does not show terraced and landscaped retaining walls on the plans. Due to the disturbed nature of the site, and the lack of visibility from all but one abutting property owner (Fletcher Quarry), the need for terraced retaining walls does not appear to be needed. The Board notes that Building Code requires that any wall over 4' high shall be designed by duly licensed Professional Engineer. ***The Board found that this criterion does not apply.***

- F. Berms.*** *The Planning Board may require a berm or berms in appropriate circumstances to promote the goals of this section.*

Due to the disturbed nature of the site, and the lack of visibility from all but one abutting property owner (Fletcher Quarry), the Board found that berms are not needed for landscape or screening purposes. However a berm is indicated to be built on the site plans to the east of the proposed Asphalt Plant. The Applicant is conditioned to construct the project in accordance with the site plans. ***The Board found that this criterion does not apply.***

- G. Screened Areas.*** *Exposed storage areas, refuse disposal facilities, machinery, service areas, truck loading areas, utility buildings and structures and other similar uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings.*

Due to the disturbed nature of the site, and the lack of visibility from all but one abutting property owner (Fletcher Quarry), the Board found that there is no need for screened areas for landscape purposes. ***The Board found that this criterion does not apply.***

- H. Maintenance.*** *All landscaping features, structures and areas shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season as a condition of approval.*

The Applicant proposes landscaped areas and the Board considered conditions such that landscaping shall be maintained over the life of the project. ***As conditioned, the Board found that this criterion is met.***



#### 4. *Stormwater Management.*

- A. *Consistency with the Massachusetts Stormwater Management Policy.*** *All development shall comply with the Department of Environmental Protection's (DEP) Stormwater Management Policy (including Phase II Stormwater Management requirements), to ensure that the rate of surface water run-off from the site shall not be increased after construction.*

The proposed project is subject to a Stormwater Management Permit from the Town in accordance with Planning Board Rules and Regulations. The Town's Engineering Department and 2009 peer reviewer found that the project's stormwater management provisions are adequate and suggested specific conditions relative to the Operation and Maintenance of all Stormwater facilities. ***The Board found that as conditioned, the Board found that this criterion is met.***

- B. *Conservation Commission.*** *Where applicable, no special permit shall be issued unless a report shall have been received from the Conservation Commission or the Planning Board's agent that the storm drainage system is consistent with DEP Stormwater Management Policy and that there is sufficient storm drainage capacity to meet the flow demands of the proposed development on-site, and where applicable, without causing surge in those storm drainage lines which serve the project and are consistent with the standards of the Town.*

The Town's Engineering Department and 2009 peer reviewer found that the project's stormwater management provisions are adequate and suggested specific conditions relative to the Operation and Maintenance of all Stormwater facilities. ***The Board found that, as conditioned, this criterion is met.***

#### 5. *Site Development Standards.*

- A. *Land Disturbance.*** *Site/building design shall preserve natural topography, reduce unnecessary land disturbance and preserve natural drainage on the site to the extent possible.*

Due to the disturbed nature of the site, that a majority of the proposed structures are on "skids" and that the new stormwater drainage will improve conditions on the site, ***the Board found that this criterion is met.***

- B. *Site Design.*** *Placement of buildings, structures, or parking facilities shall relate to the site's scenic qualities and shall blend with the natural landscape.*

The Board noted that the proposed project is located 1,400 feet from a public road, is only visible to an adjacent industrial use (Fletcher Quarry), and the portion of the Quarry adjacent to the proposed Asphalt Plant is highly disturbed; due to these factors, ***the Board found that this criterion does not apply.***

- C. *Archeological or Historical Resources.*** *The Planning Board may require Applicants to submit the proposed development plan to the Westford Historical Commission and/or the Massachusetts Historical Commission for review and comment regarding possible archaeological or historical resources on the site.*

The Applicant maintains that "there is nothing of Historical or Archaeological nature currently existing within the project site" and no evidence of any such resources was presented during the public hearings. ***The Board found that this criterion does not apply.***

- D. *Preservation of Existing Vegetation.*** *Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.*

There is a portion of the site near the entrance that is mapped by the Natural Heritage Endangered Species Program (NHESP) as estimated habitat of endangered species. NHESP



staff found that the proposed project would result in "no take" of endangered or threatened species. Also, because the proposed development leaves areas of existing vegetation intact in undeveloped portions of the site and that there is little vegetation on the proposed location of the proposed Asphalt Plant, **the Board found that this criterion is met.**

- E. Finished Grade.** *Finished grades should be limited to no greater than a 3:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible.*

The Board considered conditions of approval that would limit grading on the site in accordance with this standard, and as conditioned, the site development (including the emergency access road) shall not have slopes that exceed 3:1. **The Board found that, as conditioned, this criterion is met.**

- F. Topsoil.** *A minimum of 6" of topsoil shall be placed on all disturbed surfaces which are proposed to be planted.*

Because the site plans indicated that areas shown as lawn will be seeded with 6" of top soil, **the Board found that this criterion is met.**

**6. Pedestrian and Vehicular Access; Traffic Management**

- A. Access.** *To the extent feasible, access to nonresidential uses and structures shall be provided via one of the following (i) Access via a common driveway serving adjacent lots or premises; (ii) Access via an existing side street; (iii) Access via a cul-de-sac or loop road shared by adjacent lots or premises;*

Access to the nonresidential uses on this site is via Commerce Way, a private driveway off of Groton Road (Route 40) which is shown on the site plans as a 22 foot wide paved private road. The Applicant also proposes improvements to the entrance area of Commerce Way and Groton Road, which will require action by the Conservation Commission.

The Applicant proposed to design and construct an emergency access road within a proposed easement through an adjacent property (Fletcher Quarry) that provides an alternate access for Emergency Vehicles in case Commerce Way is blocked. The Board considered several conditions of approval that relate to the Commerce Way access and to the emergency access and the Board found that **as conditioned, the Board found that this criterion is met.**

- (1) *Access via roadways abutting residential districts shall be avoided where possible. **The Board found that this criterion does not apply.***
- (2) *Access and egress to a development with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the Planning Board.*

The only access to a public way is the entrance of Commerce Way and Groton Road. **The Board found that this criterion does not apply.**

- (3) *Access shall be obtained from existing driveways where such access is safe and efficient. Where two or more access ways now exist, the Planning Board may limit access to the more safe and efficient location.*

Access to the nonresidential uses on this site is via Commerce Way, a private driveway off of Groton Road (Route 40) which is shown on the site plans as a 22-foot wide paved private road. The Applicant also proposes improvements to the Commerce Way entrance area at Groton Road, which will require review by the Conservation Commission. The Board considered several conditions of approval that relate to the Commerce Way access. **As conditioned, the Board found that this criterion is met.**



- B. *Curb Cuts.*** *Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 30 feet in width unless waived by the Planning Board for commercial truck traffic.*

No new curb cuts on a public way are proposed, as stated above, access to the nonresidential uses on this site is via Commerce Way, an existing private driveway off of Groton Road (Route 40) which is shown on the site plans as a 22 foot wide paved private road. The Applicant also proposes improvements to the entrance area of Commerce Way and Groton Road, which will require action by the Conservation Commission. The Board considered several conditions of approval that relate to the Commerce Way access. ***As conditioned, the Board found that this criterion is met.***

- C. *Interior Circulation.*** *The proposed development shall ensure safe interior circulation within its site by accommodating and separating pedestrian, bike ways, and vehicular traffic and ensure safe access to all users of the buildings.*

Interior circulation related to the proposed Asphalt Plant is adequate to handle the proposed truck traffic and is contained within a fenced area with paved and gravel interior roadways. The Applicant has not shown pedestrian or bicycle facilities on their plans, but the board found that such facilities were not necessary given that only 5 employees would be employed at the proposed Asphalt Plant. Relying on review of the proposed facility by MDM Transportation Consultants, the Town's peer reviewer, ***the Board found that this criterion is met.***

- D. *Transportation Plan Approval.*** *The proposed development shall be subject to a Transportation Plan approved by the Planning Board. The Transportation Plan shall be prepared by a qualified traffic consultant and consist of the following information:*

- 1. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.*
- 2. A **Transportation Impact and Access Study (TIAS)**, detailing the expected traffic impacts. For proposed development in excess of 25,000 gross square feet or in excess of 20 peak hour vehicle trips, the required traffic study shall substantially conform to Town of Westford Guidelines for Preparation of a Transportation Impact Assessment and the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition. The Planning Board shall approve the geographic scope and content of the study. In addition, the Applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.*
- 3. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.*

The Applicant's site plans show the required elements such as parking loading and circulation. The Applicant submitted a TIAS by Vanasse & Associates which was reviewed by MDM Transportation Consultants, the Town's peer reviewer. The Town's peer reviewer found that the TIAS was conducted conformed to industry standards and the Town's published TIA guidelines.

The primary feature of the TIA is not mitigation to make offsite improvements, but it is the Applicant's stipulation to limit trips to and from the Asphalt Plant to a daily maximum of 250. The Board found that the on-site materials processing facility is also limited to 150



trips per day (by prior approval of the Board of Appeals). The Board considered conditions of approval to monitor trips related to the Asphalt Plant and Materials Processing facilities in and out of the site, specifically **the Board found that the proposed condition requiring video monitoring of the Commerce Way entrance at Groton Road was a reasonable way to monitor trips, though labor-intensive and difficult to enforce.** Relying on review of the proposed facility by MDM Transportation Consultants, the Town's peer reviewer, and **as conditioned, the Board found that this criterion is technically met.**

**E. Level of Service Maintenance or Improvement.**

*The suggested Level of Service (LOS) of intersections impacted by the traffic generated the development shall be:*

*For newly constructed floor area, LOS "D" or better*

1. *For all other projects subject to special permit– present LOS if present level of service is "D" or lower, where such suggested standard is not met, or where a proposed project will result in an increase of 10 seconds of delay to a signalized intersection, the PB may require the Applicant to provide detailed plans (including reconstruction concepts) that when implemented would result in a intersection LOS as set forth above, or a return to existing conditions, whichever is applicable.*

According to the Applicant's traffic study, LOS for left –turn egress from Commerce Way onto Groton Road is projected to be at E/F during the AM. and PM peak hours. Therefore the Board concluded that the standard *"For newly constructed floor area, LOS "D" or better"* is not met because E/F is a lower level of service than D. Additionally, the Board found that the projected LOS of E/F will create lengthy queues of heavy trucks. These idling heavy trucks will result in additional emissions. **The Board found that the proposal does not meet this criterion.**

- F. Dangerous Intersections.** *The Planning Board may require safety improvements for any net increase in traffic volumes of 10% or more at an intersection that has an accident history of more than 5 accidents in the last three years for which data is available.*

Relying on review of the proposed facility by MDM Transportation Consultants, the Town's peer reviewer, **the Board found that this criterion does not apply.**

- G. Sight Distance.** *Adequate sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances as detailed in the Town of Westford Traffic and Pedestrian Safety Manual.*

Relying on review of the proposed facility by MDM Transportation Consultants, the Town's peer reviewer, **the Board found that this criterion is met.**

**H. Pedestrian and Bicycle Safety.**

- (1) *All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the Planning Board.*
- (2) *Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.*
- (3) *All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.*



(4) *The Planning Board may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use in conformance with the general guidelines in the Route 110 Master Plan, Sidewalk Master Plan, and other Master Plans as adopted by the Town.*

(5) *If the property abuts a public bikeway/ right-of-way, a paved access route to the bikeway may be required.*

The Applicant did not request a waiver from these standards, but points out that there will be minimal pedestrian and bicycle traffic from the Asphalt Plant or generated by the project uses (either employees or customers). While the Applicant stated that they would construct a separate pedestrian facility for employees, the submitted Site Plan does not indicate a separate pedestrian facility, and therefore employees will use the Commerce Way roadway to move from the Asphalt Plant and materials processing facility to the restrooms located in the existing office building. Based on the limited number of employees and the lack of projected pedestrian and bicycle use by customers, ***the Board found that these criteria do not apply.***

H. ***Location of Parking Areas.*** *Where feasible, the Planning Board may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood.*

Due to the fact that the proposed facility is located 1,400 feet from the public way, ***the Board found that this criterion does not apply.***

I. ***Traffic Calming Features.*** *Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.*

Due to the fact that the proposed facility is located 1,400 feet from the public way and that improvements are proposed for the Commerce Way entrance at Groton Road, no further improvements are required. ***The Board found that this criterion does not apply.***

**Summary 6. Pedestrian and Vehicular Access; Traffic Management**

***Because the Board found that criterion E. is not met, it found that the proposal does not meet the overall Criterion of "Pedestrian and Vehicular Access; Traffic Management."***

**7. Community Character.**

A. ***Compatibility with Neighborhood.*** *The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with abutting properties, natural and built environment in the area and the surrounding neighborhood, with consideration to be given to the following:*

(1) *harmony in scale, bulk, massing, architectural character, building materials, placement and density; (Refer to draft approval decision)*

(2) *generation of traffic and the capacity of surrounding streets; (Refer to draft approval decision)*

(3) *consistency with the goals and objectives of the Town of Westford Master Plan and with any other applicable plan that has been adopted by the Town.*

1. Testimony was provided by the Applicant that the proposal would likely result in approximately thirty-seven (37) additional vehicle trips during the Weekday Morning Peak Hour (thirty-five (35) of which are anticipated to be large trucks), and twenty-five (25) additional vehicle trips during the Weekday Evening Peak Hour (twenty-three (23) of which are anticipated to be large trucks). Although the Applicant's traffic engineer



testified that the proposal would not result in any significant impacts on motorist delays, the Board found that, relative to traffic, neighborhood character is defined by more than the mere operational status of a given roadway.

2. Testimony was received from numerous residents concerned that the introduction of the additional, consistent heavy truck traffic would result in a substantial detriment to the character of the neighborhood. It was noted that environmental studies to date relative to noise, odor and overall air quality focused on the proposed Asphalt Plant itself, and did not account for the effects (noise associated with acceleration/deceleration of large trucks, odors and air pollutants associated with the cargo and/or exhaust from large trucks, additional minor delays associated with trucks entering (inclined entrance ramp) or exiting nearby Route 3, a perpetual spike in heavy truck traffic during early morning hours, etc.) as perceived by the neighborhood, particularly those neighboring properties containing dwellings.
3. Neighbors also described existing dangerous truck movements into and out of the project site and the nearby entrance and exit ramps to Route 3, and expressed concern that this would be exacerbated by more than doubling the number of heavy truck trips accessing the site. Therefore, four (4) members of the Board found that the Applicant failed to prove that the proposed Asphalt Plant would not adversely affect neighborhood character and social structure, and concluded that the proposed use would not be compatible with the surrounding neighborhood due to heavy truck traffic.
4. Concern about the effect of vehicle emissions on the community as detailed below.
  - a. In response to concerns related to mobile emissions, 2009 analysis data was provided.
  - b. This data was inadequate to address concerns related to vehicle emissions and concerns related to health and safety:
    - Vehicle class as part of this study appears inadequate, given apparent updates to EPA device classification, and VAI study which shows up to 25% of asphalt laden vehicles (in a 1,500 day) could be 32-ton, and all vehicles bringing raw material over public roadways are 32-ton trucks
    - Updated AERMOD and vehicle emissions (MOBILE 6.2) models appear to be available subsequent to these report submissions, including vehicle classification and acceleration models, and was not utilized.
  - c. The Board found that the projected LOS of E/F will create lengthy queues of heavy trucks. These idling heavy trucks will result in additional emissions.
  - d. While commentary related to vehicle emissions carrying raw material from abutting sites to the site property was mentioned, the vehicle counts and modeling represented (GPI 11/2/09) appears to represent only vehicle trips from the site driveway. CEI (12/09) comments on additional mobile sources but also used older models.
  - e. Emissions study results (GPI 11/2/09) "assumes a peak operation condition (2,000 tons processed per day)". However, the Applicant stated (in public hearing) that depending on weather conditions (rain), production could higher on some days to offset, while maintaining an average monthly production of 1,500 tons per day. This could result in significantly higher asphalt output on particular days, increasing concentrated mobile emissions.
5. For the reasons above, ***the Board found that the proposal does not meet this criterion.***



**8. Utilities; Security; Emergency Systems.**

- A. *Projects may not overburden Town infrastructure services including water, gas, electricity and waste water systems. Building design may make use of water-conserving plumbing and minimize the amount of stormwater runoff through the use of best management practices for storm water management. Further, building may be designed to make use of natural and energy resources efficiently in construction, maintenance, and long term operation of the building, including supporting mechanical systems that reduce the need for mechanical equipment generally and its location on the roof specifically. Compliance with the Leadership in Energy and Environmental Design (LEED) certification standards and other evolving environmental efficiency standards shall be encouraged.*

The Applicant provided detailed information in the March 27, 2015 submittal regarding the adequacy of existing utilities to serve the proposed Asphalt Plant including sanitary wastewater facilities in the existing office building for the 5 employees, and an existing well, that will provide water to the two 30,000 gallon Fire Cisterns, a fire alarm system, an underground natural gas line and existing overhead electric power and telephone supply lines that will be supplied to the site. The site is secured by fencing and the Applicant proposes fire alarms and training for the Westford and Chelmsford Fire Department and provision of a Foam Cart on the site. The Board considered several conditions relating to these life safety measures. ***As conditioned, the Board found that this criterion is met.***

**9. Fiscal Analysis.**

- A. *The proposed development should not place more demand on public services than it generates in tax revenue, or overburden the Town's utilities and infrastructure. The fiscal assessment will also consider how the proposed development would generate an additional need for, or affect the availability of affordable housing (and schools).*

The Board found that there was insufficient information provided by the Applicant to demonstrate that the Asphalt Plant would not have a negative impact on town services, tax base or property values. Although the Applicant testified that the project would result in increased property value for the subject property, there was no information provided by the Applicant as to the potential impact on neighboring property values, particularly residential property values. Testimony was received from abutters indicating that installation of similar facilities in other locations have resulted in decreased property values to neighboring properties. There was insufficient information provided by the Applicant to confirm that there would be no net decrease in neighborhood property values. For similar reasons, there was insufficient information provided by the Applicant to assure the Board that the tax base would not be adversely affected by the proposal. Per the Applicant, the proposed Facility will result in some additional demand on local services such as police, fire, roadways; however, there was insufficient information provided by the Applicant to demonstrate that the proposed Facility would not result in a net negative financial impact on town services.

**FINDINGS - Special Permit Criteria - Section 9.3:**

The Applicant **failed to convince a supermajority of the Board that it should exercise its discretion to approve the project.** In reaching the decision to deny, the opposing members based their decision, in whole or in part, on the following:



**1. Social, economic, or community needs which are served by the proposal;**

- a. The proposed Asphalt Plant will add to the Town's general fund by providing an estimated increase in tax revenues of \$20,000 and will provide 5 jobs for staff at the facility (though there is no suggestion in the record that these employees would be Westford residents).
- b. The Board found that the social and community needs of the Town are not advanced by the proposal in part because scores of residents spoke in opposition to the proposal, while only a single resident spoke in favor.
- c. The economic benefit of an additional \$20,000 per year in personal property tax was not enough to outweigh the negatives of the proposal, which are articulated in detail in other parts of this decision, including but not limited to:
  - emissions from heavy truck traffic;
  - noise that has not been shown to meet the standards for a Major Commercial Project because key information about the crushing plant was not provided;
  - increased heavy truck traffic, especially in the morning peak hour, and
  - negative impact to residential property values in the surrounding neighborhoods.
- d. For the reasons stated above, ***the Board found that this criterion is not met.***

**2. Traffic flow and safety, including parking and loading;**

As detailed above, the application was reviewed by MDM Transportation Consultants, the Town's peer reviewer, for traffic flow, safety, parking and loading. Specific conditions of approval relating to limitations on the number of trips in and out of Commerce Way and other transportation related improvements were considered by the Board. Similarly, the application was reviewed by the Town of Westford Engineering and Fire Departments with respect to internal site circulation to ensure the adequacy of the private driveway and emergency access for emergency vehicles. ***As conditioned, the Board found that this criterion is technically met.***

**3. Adequacy of utilities and other public services;**

The Applicant provided detailed information in the March 27, 2015 submittal regarding the adequacy of existing utilities to serve the proposed facility including sanitary wastewater facilities in the existing office building for the 5 employees, and an existing well, that will provide water to the two 30,000 gallon Fire Cisterns, a fire alarm system, an underground natural gas line and existing overhead electric power and telephone supply lines that will be supplied to the site. Stormwater is addressed in detail above and with numerous conditions considered by the Board. ***As conditioned, the Board found that this criterion is met.***

**4. Neighborhood character and social structures;**

- a. Testimony was provided by the Applicant that the Asphalt Plant would likely result in approximately thirty-seven (37) additional vehicle trips during the Weekday Morning Peak Hour (thirty-five (35) of which are anticipated to be large trucks), and twenty-five (25) additional vehicle trips during the Weekday Evening Peak Hour (twenty-three (23) of which are anticipated to be large trucks). Although the Applicant's traffic engineer testified that the proposal would not result in any significant impacts on motorist delays, the Board found that, relative to traffic, neighborhood character is defined by more than the mere operational status of a given roadway.
- b. Testimony was received from numerous abutters concerned that the introduction of the additional, consistent truck traffic would result in a substantial detriment to the character of the neighborhood. It was noted that environmental studies to date relative to noise, odor and overall air quality focused on the proposed Asphalt Plant itself, and did not account for the effects (noise associated with acceleration/deceleration of large trucks, odors and air pollutants associated with the cargo and/or exhaust from large trucks, additional minor delays



associated with trucks entering (inclined entrance ramp) or exiting nearby Route 3, a perpetual spike in heavy truck traffic during early morning hours, etc.) as perceived by the neighborhood, particularly those neighboring properties containing dwellings.

- c. Neighbors also described existing dangerous truck movements into and out of the project site and the nearby entrance and exit ramps to Route 3, and expressed concern that this would be exacerbated by more than doubling the number of heavy truck trips accessing the site. Therefore, four (4) members of the Board found that the Applicant failed to prove that the proposed Asphalt Plant would not adversely affect neighborhood character and social structure.
- d. Given site locus, primary vehicle traffic entering and exiting the Asphalt Plant would be accelerating either from the site driveway, or from Route 3 egress towards the Asphalt Plant, increasing vehicle merge factors, noise, and emissions to nearby residences.
- e. The Applicant represented that plant output could significantly exceed 1,500 tons per day, for instance due to weather conditions, to maintain 1,500 tons per day average, even though Land Court testimony stated 1,500 tons maximum, and proposed vehicle trip projections (64 trucks / day exported aggregate (asphalt)) modeled a 1,500 ton output. As such concerns related to vehicle trip distribution, peak hour traffic distribution, vehicle queuing were not adequately addressed.
- f. While it was represented in public hearing that asphalt trucks would be 24-ton or less (for smaller residential jobs) VAI data showed 25% of asphalt trucks (based on 1,500 ton output) were 32-ton trucks, and such number could be further variable based on >1,500 ton output in operations.
- g. It was represented that ~50% of raw materials could be delivered from neighboring property, which over the course of yearly operation at maximum output could be thousands of vehicle trips. No detail was provided on source of these vehicle movements, additional loading on Rt. 40 to get these vehicles to neighboring properties to gather materials, and as noted before inadequate information on vehicle noise and emissions,
- h. VAI models, queue lengths, and peak vehicle movements appears modeled at 1,500 ton output. It was represented that daily output could be significantly higher, and while limited by 250 daily trips, the percent of trips of asphalt laden trucks could be significantly higher. This could result in additional exit queuing at the site exit, additional concerns on Rt. 40 traffic merge of exiting vehicles, and additional impacts to neighboring residents on acceleration / emissions / odor factors.
- i. The proposed facility, with enormous fuel tanks, smokestacks, conveyor belts, fuel burners and other heavy equipment was not deemed to be consistent with the neighborhood character.

For the reasons above, ***the Board found that the proposal does not meet this criterion.***

##### ***5. Impacts on the natural environment; and***

- a. The Applicant provided adequate protection for the site's wetland resources. Proposed improvements to the entrance driveway will require review by the Conservation Commission.
- b. The Board also considered conditions to require the Applicant to provide a bond in case of environmental contamination from the 70,000 gallons of hazardous materials that are proposed to be stored on site. The Board found that as conditioned the Applicant provides adequate protection for fire and life safety related to the storage of hazardous materials.
- c. The proposed Asphalt Plant and materials processing facility received an Air Quality Permit from the Department of Environmental Protection 310 CMR 7.02 – Air Quality Non-Major Comprehensive Plan Application Transmittal No. X227251, Application No. MBR-09-IND-005, Modified Conditional Approval (DEP Permit). The DEP Board found that the proposed plant uses the Best Available Control Technology (BACT). The DEP Permit contains numerous



conditions regarding limits on air pollutant emissions, limits on noise, monitoring and reporting, requirements. The Board considered conditions of approval replicate these conditions should the DEP fail to enforce the conditions of approval.

- d. Board found that emissions from heavy trucks were not adequately addressed as detailed in response to Section 9.3A.7. Community Character criterion above.
- e. For the reasons above, ***the Board found that the proposal does not meet this criterion.***

**6. Potential fiscal impact, including impact on town services, tax base, property values, and employment.**

- a. The Board found that there was insufficient information provided by the Applicant to demonstrate that the project would not have a negative impact on town services, tax base or property values. Although the Applicant testified that the project would result in increased property value for the subject property, there was no information provided by the Applicant as to the potential affect to neighboring property values.
- b. Testimony was received from abutters indicating that installation of similar facilities in other locations have resulted in decreased property values to neighboring properties. There was insufficient information provided by the Applicant to confirm that there would be no net decrease in neighborhood property values.
- c. For similar reasons, there was insufficient information provided by the Applicant to assure the Board that the tax base would not be adversely affected by the proposal. Per the Applicant, the proposed Asphalt Plant will result in some additional demand on local services such as police, fire, roadways; however, there was insufficient information provided by the Applicant to demonstrate that the proposed Facility would not result in a net negative financial impact on town services.
- d. For the reasons above, ***the Board found that the proposal does not meet this criterion.***

**7. Board's Evaluation of the Project**

Even in circumstances in which each of the objective performance standards set forth in the Zoning Bylaw are met, which was not found to be the case here, the Board is required to exercise its judgment in determining whether to grant a discretionary special permit. In this instance, the Board acknowledges that the Land Court has made a determination that the Asphalt Plant would constitute "Light Manufacturing" based upon its parsing of the definition of that term set forth in the Bylaw. Even accepting, for purposes of this decision only, and without waiving the Board's rights to appeal the LC Decision in this regard, that the proposal technically meets the definition of light manufacturing as determined by the Land Court, common sense and commonly-accepted planning principles would suggest that an asphalt manufacturing facility, capable of producing 400 tons of asphalt per hour, requiring a 68-foot smokestack, large outdoor conveyor belts, storage of seventy thousand (70,000) gallons of petroleum products, high-heat processing and other similar features, and anticipated to produce 250 additional heavy truck trips per day, was not the type of use contemplated when the Town determined to allow light manufacturing uses in the IA Zoning District. Thus, the Board chose not to exercise its discretion to grant a MCP special permit.

The Board's decision was further informed by the concerns expressed by numerous residential neighbors of the Asphalt Plant, who described dangerous and disturbing impacts relating to the existing heavy truck traffic at the site, and the inevitable increase in such impacts were the Board to authorize a more than doubling of such heavy truck trips and the new potential for neighbors to experience unpleasant odors from the manufacture and transport of the asphalt material.



Finally, the fact that scores of residential neighbors of the project site attended numerous sessions of the public hearing and offered forceful written and verbal opposition to the project could not be ignored by the Board in exercising its discretionary review of the MCP special permit application. Rarely, if ever, has the Board been presented with an application that has engendered such a public outcry by so many residents.



Planning Board members voting to APPROVE:

*Katherine Hollister*

Planning Board members voting not to APPROVE:

*Michael Green, Chair*  
*Dennis Galvin, Vice Chair*  
*Matt Lewin*  
*Darrin Wizst*

*NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK*

I hereby certify that this is a true copy of the decision rendered by the Planning Board and filed in the office of the Town Clerk on \_\_\_\_\_, \_\_\_\_; I further certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Westford, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

\_\_\_\_\_  
Kaari Mai Tari  
Town Clerk

**cc:** Attorney Douglas C. Deschenes for 540 Groton Road LLC, Newport Materials LLC, Planning Boards of Acton, Carlisle, Chelmsford, Groton, Littleton, Tyngsborough, Abutters within 300 feet; Town Engineer, Building Commissioner, Westford Fire Department, Zoning Board of Appeals, Board of Health, School Committee



# SITE PLAN

## ASPHALT MANUFACTURING FACILITY

### 540 GROTON ROAD (ROUTE 40)

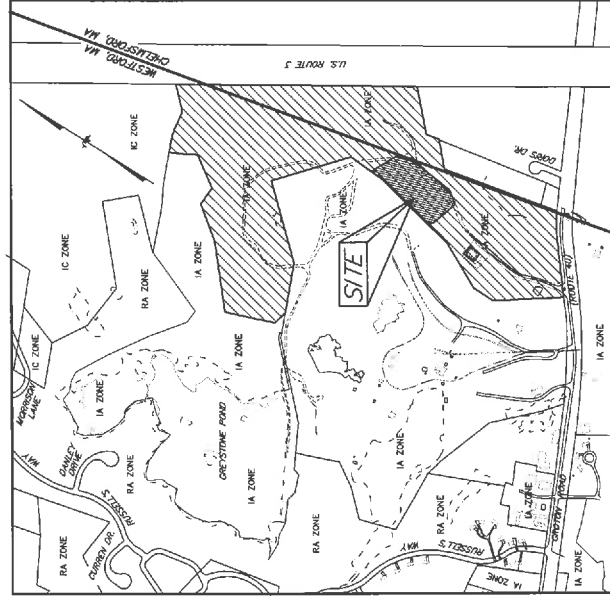
### WESTFORD, MASSACHUSETTS

#### NOTES:

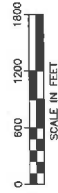
1. TOPOGRAPHIC AND PLANIMETRIC INFORMATION OBTAINED FROM AN AERIAL SURVEY CONDUCTED BY EASTERN TOPOGRAPHICS, WESTFORD, NH. SCALE: 1"=40' COLOUR INTERVAL: 2' PHOTO DATE: 20 APR 2006 (1:4200) COMPLETION DATE: 12 NOV. 2007.
2. GROUND CONTROL BY LANDTECH CONSULTANTS, INC. THIS MAPPING WAS CONDUCTED USING AERIAL PHOTOGRAPHY AND DIGITAL TERRESTRIAL MODELLING (DTM) METHODS WITH KIT ATLAS SOFTWARE. DIGITAL NAME: 100330L.AIT. ANY USER SHOULD DETERMINE THE SUITABILITY OF THIS AERIAL MAPPING FOR THE INTENDED PURPOSE. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED.
3. BOUNDARY INFORMATION SHOWN HEREON IS THE RESULT OF AN ON THE GROUND SURVEY CONDUCTED BY LANDTECH CONSULTANTS, INC. IN NOVEMBER 2007 AND FROM EXISTING DEEDS AND PLANS.
4. UTILITY INFORMATION SHOWN HEREON WAS TAKEN FROM INFORMATION SUPPLIED BY THE VARIOUS UTILITY COMPANIES. LOCATION AND SIZES OF ALL UTILITIES MUST BE FIELD VERIFIED BY ALL CONTRACTORS PRIOR TO THE START OF ANY CONSTRUCTION. CONTRACTORS ARE ADVISED TO OBTAIN A MINIMUM OF 72 HOURS IN ADVANCE PRIOR TO ANY EXCAVATION.
5. FLAGGED WETLAND LOCATIONS SHOWN ON THIS MAP WERE PROVIDED BY A FIELD SURVEY CONDUCTED BY LANDTECH CONSULTANTS, INC. IN NOVEMBER 2007. ROAD, SUITE 15, TYNGSBORO, MA 01879, NOVEMBER 2007 THROUGH JANUARY 2008 AND FIELD LOCATED BY LANDTECH CONSULTANTS, INC. IN DECEMBER 2007. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED. LANDTECH CONSULTANTS, INC. HAS NO LIABILITY FOR THE USE OF THIS MAPPING FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED.
6. THE SUBJECT PARCEL IS NOT LOCATED IN THE 100 YEAR FLOOD HAZARD AREA AS DEFINED ON THE FEMA FLOOD INSURANCE RATE MAP ZONES B & C ON COMMUNITY No. 250225 0005 D, EFFECTIVE DATE JUNE 15, 1983.
7. THE MAIN PORTION OF THE PARCEL IS LOCATED IN WESTFORD LOCATED IN ZONING DISTRICT 'IA' (INDUSTRIAL 'A').  
MINIMUM LOT AREA: 40,000 S.F.  
MINIMUM LOT FRONTAGE: 200 FEET  
MINIMUM BUILDING SETBACKS: FRONT: 35 FEET  
SIDE: 15 FEET  
REAR: 30 FEET
8. A PORTION OF THE PARCEL IS LOCATED IN CHELMSFORD AND IS IN ZONING DISTRICT 'IA' (INDUSTRIAL 'A').  
MINIMUM LOT AREA: 40,000 S.F.  
MINIMUM LOT FRONTAGE: 200 FEET  
MINIMUM BUILDING SETBACKS: FRONT: 40 FEET  
SIDE: 40 FEET  
REAR: 30 FEET

#### ZONING BY-LAW (CHAPTER 172C)

9. SECTION 8.4 - SITE PLAN APPROVAL REQUIRED FROM THE WESTFORD PLANNING BOARD.
10. SECTION 8.3A - SPECIAL PERMIT FOR MAJOR COMMERCIAL DEVELOPMENT FOR A LIGHT MANUFACTURING FACILITY.
11. SECTION 8.1 - SPECIAL PERMIT FOR THE STORAGE OF #2 FUEL OIL IN A WATER RESOURCE PROTECTION OVERLAY DISTRICT (WPROD).
12. STORM WATER MANAGEMENT BY-LAW - SPECIAL PERMIT.



#### LOCUS PLAN



ISSUE DATE: APRIL 6, 2009  
REVISED: JULY 31, 2009  
OCTOBER 30, 2009  
DECEMBER 31, 2014  
FEBRUARY 13, 2015  
MARCH 26, 2015



JOB No. 09-102 DRAWING No. 8915

#### PLAN INDEX

- |   |                         |
|---|-------------------------|
| 1) TITLE SHEET                            | (TS)                    |
| 2 & 3) EXISTING CONDITIONS PLANS          | (EX1 & EX2)             |
| 4) OVERALL SITE PLAN                      | (OSP)                   |
| 5) SITE PLAN                              | (SP)                    |
| 6-8) CONSTRUCTION PLAN                    | (CP1 - CP3)             |
| 9) SITE UTILITIES AND LIGHTING PLAN       | (SU)                    |
| 10-11) EROSION CONTROL PLAN               | (EC1 & EC2)             |
| 12-14) DETAILS & SECTIONS                 | (DS1, DS2 & DS3)        |
| 15) STORM WATER POLLUTION PREVENTION PLAN | (SWPPP)                 |
| 16) PRE-DEVELOPMENT DRAINAGE MAP          | (PRE) (SEPARATE COVER)  |
| 17) POST-DEVELOPMENT DRAINAGE MAP         | (POST) (SEPARATE COVER) |
| 18) PROPOSED PLANT LAYOUT                 | (D4101701)              |
| 19) GENERAL COMPONENT ELEVATIONS          | (D4101702)              |
| 20) TANK FARM - PLAN AND SIDE ELEVATIONS  | (2785-140-1-A1)         |

#### APPLICANT

NEWPORT MATERIALS, LLC  
164 BURKE STREET, SUITE #1  
NASHUA, NH 03080

#### CO-APPLICANT

540 GROTON ROAD LLC  
164 BURKE STREET, SUITE #1  
NASHUA, NH 03080

#### RECORD OWNER

540 GROTON ROAD LLC  
164 BURKE STREET, SUITE #1  
NASHUA, NH 03080

TOWN OF WESTFORD  
PLANNING BOARD APPROVAL

#### SITE LOCATION:

GROTON ROAD (ROUTE 40)  
WESTFORD, MASSACHUSETTS  
ROUTE 3  
CHELMSFORD, MASSACHUSETTS

DATE

PB 1504: SPR/SWPP/SP/WPROD/YSM

JOB No. 09-102  
DRAWING No. 8915







**EXISTING CONDITIONS PLAN**  
**ASPHALT MANUFACTURING FACILITY**  
 540 GROTON ROAD  
 WESTFORD, MA  
 APRIL 6, 2008

Scale: 1" = 100'

Prepared for:  
 NEWPORT MATERIALS, LLC  
 164 BURKE STREET, SUITE #1  
 NASHUA, NH 03060

Design: N/A  
 Draft: DRL  
 Check: CML/DJS

DATE: 7/31/09  
 PER: PER  
 REVIEW: REVIEW  
 COMMENTS: COMMENTS  
 BY: BAY  
 DATE: 10/29/09  
 PER: PER  
 REVIEW: REVIEW  
 COMMENTS: COMMENTS  
 BY: BAY  
 DATE: 12/21/14  
 PER: PER  
 REVIEW: REVIEW  
 COMMENTS: COMMENTS  
 BY: BAY  
 DATE: 2/25/15  
 PER: PER  
 REVIEW: REVIEW  
 COMMENTS: COMMENTS  
 BY: BAY

**NOTES:**  
 1. SEE SHEET 01P (OVERALL SITE PLAN) FOR NOTES AND LEGEND.  
 2. SEE SHEET 01N FOR NOTES OF SITE.

**TOWN OF WESTFORD**  
**PLANNING BOARD APPROVAL**

DATE: \_\_\_\_\_

0 100 200 300  
 SCALE IN FEET




















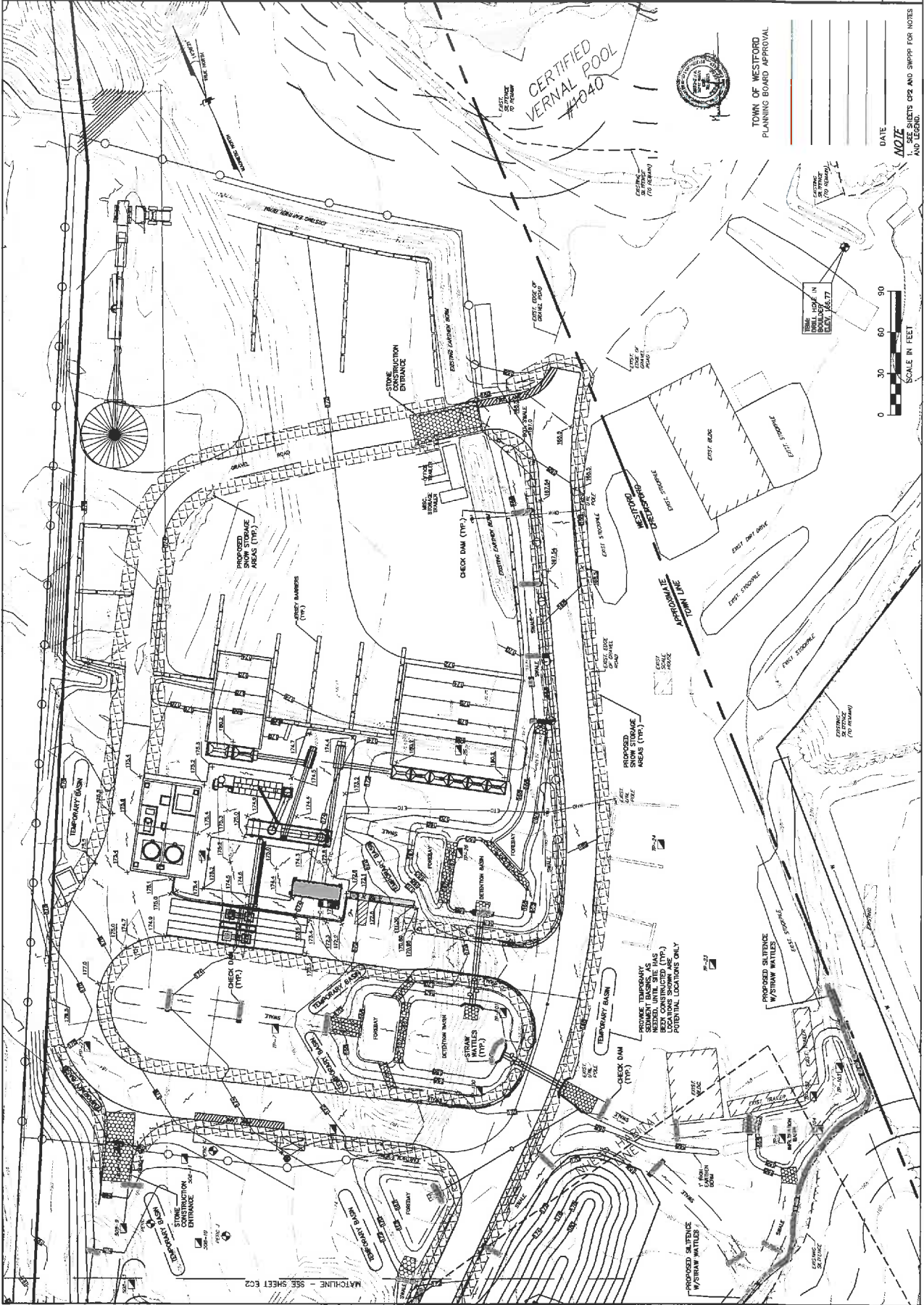








Job No.	09-102
Dwg No.	8915
Sheet	E01
 <p>Landtech Engineering &amp; Surveying 315 South Street - Westford, MA 01886 Tel: (978) 652-6100 - westford@landtech.com</p>	
<p>Scale: 1" = 20'</p> <p>APRIL 6, 2009</p> <p>Prepared for: NEWPORT MATERIALS, LLC 104 BURKE STREET, SUITE #1 NASHUA, NH 03090</p>	
Design	Draft
Check	Check
Design	DSL
Check	DSL
DATE	REVISION
7/31/09	PER REVIEW COMMENTS.
10/20/09	PER REVIEW COMMENTS.
12/31/14	SOUND WALL
2/13/15	TOWN COMMENTS
3/25/15	TOWN COMMENTS
BY	DSL

























Architectural drawing of the rear elevation of the building. The drawing shows a large curved structure on the left and a smaller rectangular structure on the right. Dimensions are provided in feet and inches, with some measurements marked as 'REF' (reference).

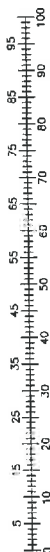
Dimensions and labels:

- Top left: 51'-0" REF
- Top center: 44'-3 7/8" REF
- Top right: 22'-4 1/4" REF
- Left side: 30'-0" REF
- Center left: 18'-1 1/4" REF
- Center right: 25'-0" REF
- Bottom left: 25'-0" REF
- Bottom center: 4'-0" REF
- Bottom right: 8'-0" REF
- Far right: 8'-0 3/4" REF
- Far right: 34'-0" REF
- Label: "RUSH WARE"

Technical drawing of a bridge structure, showing a side elevation and a cross-section. The side elevation shows a bridge with a central span and two side spans, supported by piers. The cross-section shows the internal structure of the bridge, including the deck, trusses, and supports. Dimensions are given in feet and inches.

13'-15" REF  
 3'-4" REF  
 3'-5" REF  
 12'-5 3/8" REF  
 10'-9 3/16" REF  
 D  
 D  
 4 X TO SINGLE DECK SCREEN  
 60" SCALE CONVEYOR  
 VIEW B-B 90° FEED  
 65'-1 3/16" REF

TWO 30K VERTICAL INDIRECT FIRED  
AC TANKS.

[illegible]

— 365 —

— 365 —

SKIDDED : 2x36 SPLIT-LEVEL (Left Hand - ABMCC)

(4) 200 TON DELUXE SILOS  
86'-0" SLAT CONVEYOR

[illegible]



**LONG FARM FOUNDATION**  
P.O. Box 4000

FLOOR ELEV. @ SUMP

- FLOOR REINFORCING  
NOT FOUND

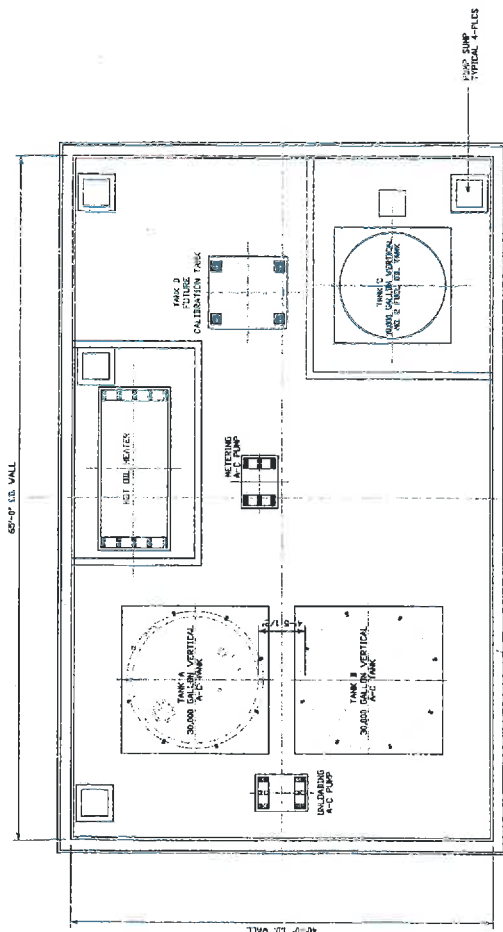
2<sup>nd</sup> CLER. TYP.

84 BAR BID<sup>®</sup> EACH WAY  
ALL CARRIES NO SLIMS & 500000 P. 10000

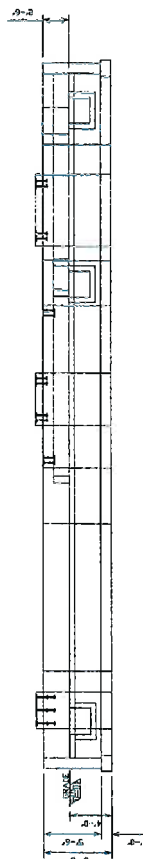
PUMP SHUP DETAIL  
TYPICAL TWO (2) PLACES  
SCALE 3/4"=1'-0"

TANK A = 20,000 GALLON A-5 STORAGE TANK, VERTICAL SECTION  
TANK B = 20,000 GALLON A-5 STORAGE TANK, VERTICAL SECTION  
TANK C = 20,000 GALLON A-5 STORAGE TANK, VERTICAL SECTION  
TANK D = FILLING EXHAUSTION TANK, HORIZONTAL SECTION  
TANK E = FILLING EXHAUSTION TANK, HORIZONTAL SECTION  
TANK F = HOT OIL HEATER 68 GAL.  
  
DESIGNATION AREA REQUIREMENT IS VOLUME OF LARGEST TANK CAPTA CODE 300  
TOTAL NET VOLUME REQUIRED IS 74,100 GALLONS (2,560 CU. FT.)  
TOTAL NET VOLUME AS SHOWN 4,636 CU. FT.

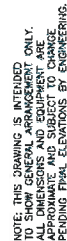
NET INSPECTED ACCUMULATION IS QUANTIFIED BY EVAPORATIVE LOSSES  
HOWEVER UNDER ESTIMATED WATER ACTUALITIES IT MUST BE REMOVED  
BY OTHER MEANS. THE DESIGNER HAS INDICATED THAT IT MUST BE HANDLED  
IN APPROPRIATE MANNER AS REGulated BY NASSP



CHINA'S CHANGING

[illegible]





REVISIONS		DATE	BY	ECO
NO	DESCRIPTION			
1	ADDED SECOND DR FOR APPR	4/14/98		
2	ADDED SHEET 2 FOR APPR	4/24/98		
3	LOC. CHGS /ALL EQUIP SHIT 2	5/25/98		
4	UPDATE FOR APPROVAL	6/10/98		

**REVISIONS**

This program is the property of  
**GENCOR INDUSTRIES, INC.**  
3331 S. GARDNER CLAYTON TRAIL  
CHICAGO, ILLINOIS 60649

PROPOSED PLANT LAYOUT  
400 TON SKIDDED ULTRAPLANT

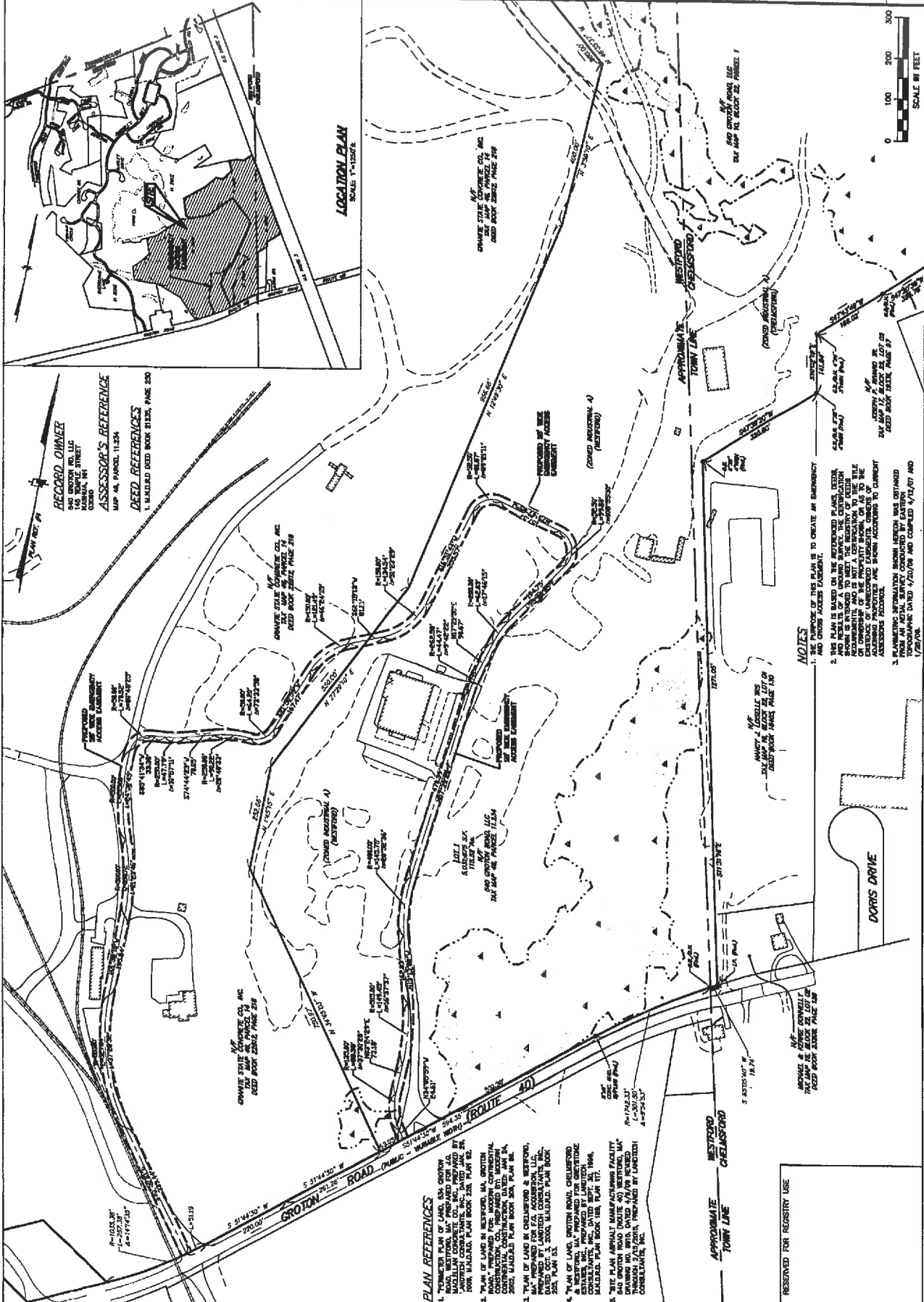
SPECIALTY NEWPORT MATERIALS		SPECIALTY NEWPORT MATERIALS	
DATE: 3/4/98	DATE: 3/4/98	DATE: 3/4/98	DATE: 3/4/98
TIME: 1:00 PM	TIME: 1:00 PM	TIME: 1:00 PM	TIME: 1:00 PM
BY: J. L. GIBSON	BY: J. L. GIBSON	BY: J. L. GIBSON	BY: J. L. GIBSON
FOR: J. L. GIBSON	FOR: J. L. GIBSON	FOR: J. L. GIBSON	FOR: J. L. GIBSON
PROJECT NO. D4101.7D1	PROJECT NO. D4101.7D1	PROJECT NO. D4101.7D1	PROJECT NO. D4101.7D1
DRWG. NO. D4101.7D1	DRWG. NO. D4101.7D1	DRWG. NO. D4101.7D1	DRWG. NO. D4101.7D1
SCALE: 3/32" = 1'-0"	SCALE: 3/32" = 1'-0"	SCALE: 3/32" = 1'-0"	SCALE: 3/32" = 1'-0"
SHEET NO. 1		SHEET NO. 1	

NOTE: THIS DRAWING IS INTENDED TO SHOW GENERAL ARRANGEMENT ONLY. ALL DIMENSIONS AND EQUIPMENT ARE APPROXIMATE AND SUBJECT TO CHANGE PENDING FINAL ELEVATIONS BY ENGINEERING.



- |    |  |
|----|--|
| 1  | 5x - 10" x 14" Skidded Cold Feed System with Two Bin Vibrators, 1" Bin Dividers, 36" x 102" Troughing Conveyor with Eddy Current Drives, and 36" Collector Conveyor with Drive.  |
| 2  | 5" x 14" Deister Aggregate Vibrating Screen Double Deck with Total Remote Bypass and Drive.  |
| 3  | 30" x 70" Skidded Aggregate Scale Conveyor with Drive.   |
| 4  | Model 400, 90" x 44" Skidded Insulated UltraDum with 1/2" Spall, Advance Rap Entry, Ultra 1135 Oil Gas Fired Burner, Four Drives, Two Gas Recirculation, Feed Chute with Vibrator and 1/2" N-Hard Liners, Remote Controlled Calibration Chute, Fuel Pump, and Blue Smoke Capture System. |
| 5  | UltraDum 6X Warm Mix System.   |
| 6  | Primary Collector Mounted Over Drum  |
| 7  | Model GFS 151, 74.092 OFM Skidded Baghouse with 872- 72" Bags Made of Micronider Material, 15,038 Sq. Ft. of Cloth, 4.921' Air to Cloth Ratio, Model 490 ECS Exhaust Fan with One Motor.   |
| 8  | Dust Removal System: One 14" Diameter Auger with Drive, Calibration Pan, and Waste Vault.  |
| 9  | 12" x 38" Skidded Operator's Control Center, Motor Control Center, Blower Control Boxes and Six Loudoun Controls, and Vector   |
| 10 | One 10x 15" Skidded Recycle Bin - Series 1, One Bin Vibrator, 12" x 33" Troughing Faner with Eddy Current Drive, 36" Collector Conveyor with Drive, 36" Recycle Platform with Loader, and Full Bulkheads with Wing Walls.  |
| 11 | 4" x 10" Deister Recycle Vibrating Screen Single Deck with Drive.  |
| 12 | 24" x 70" Skidded Recycle Scale Conveyor with Drive.   |
| 13 | Four 200 Ton Deluxe Stationary Silos with Safety Gates, 1/2" Ceramic Liners, 24" x 2 Ceramic Wall Liners and Rotary Pans, Air Compressor.  |
| 14 | Top of Silo Blue Smoke for Four Silos over Two-Drives.   |
| 15 | 400 TPH x 86' Deluxe Slot Conveyor with Cleanness, Reject Chute, and Drive.  |
| 16 | 400 TPH x 16' Top Way Top of Silo Transfer and One 450 TPH x 18' Top of Silo Cross Transfer Conveyor Each with Drives.   |
| 17 | HYFEC 252 Gerson Hot Oil May Heater with Expendable Tank Stand.  |
| 18 | Two 30,000 Gallon Indirect Fired Air Vertical Tanks with Unloading Pump, and 3" Unloading/Metering Pumping.  |
| 19 | Two 11x 102" Run Low-Profile Truck Scoops  |

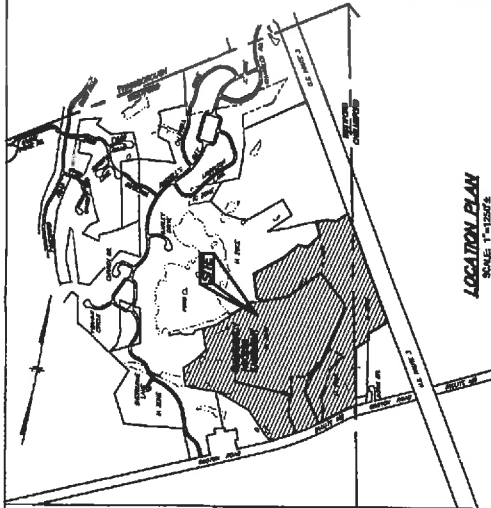




**RECORD OWNER**  
540 GROTON RD. LLC  
100 TRIPLE STREET  
COVINGTON, MA 01841

**ASSESSOR'S REFERENCE**  
MAP 44, PARCEL 11.324

**DEED REFERENCES**  
1. BULKHEAD DEED BOOK 2123, PAGE 230

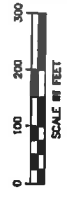


**PLAN REFERENCES**

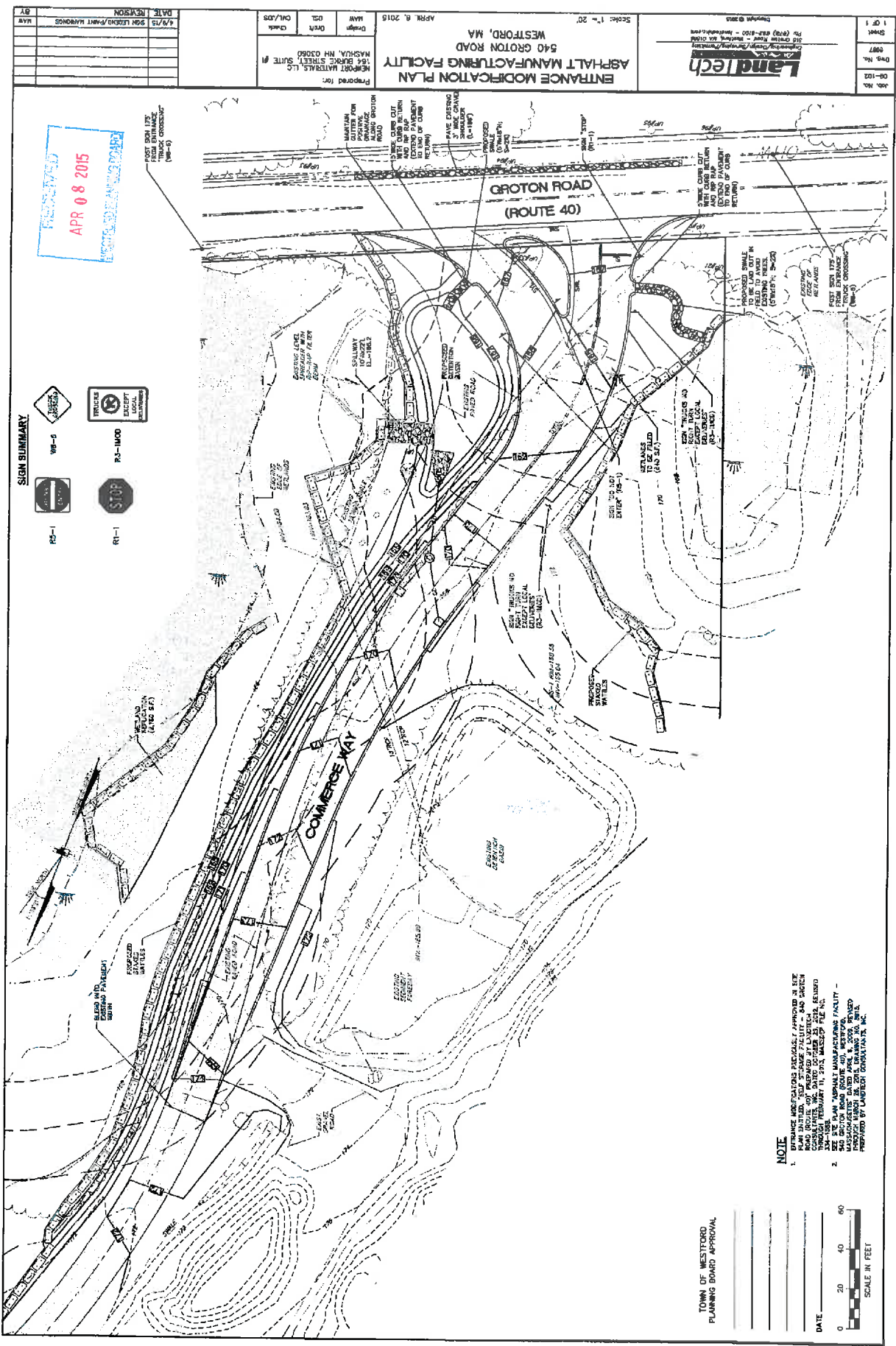
1. "TERMINER PLAN OF LAND, 540 GROTON ROAD, WESTFORD, MA, PREPARED FOR L.D. CORNEILLE BY MICHAEL & SONNET CORNEILLE, INC., DATED JAN. 20, 2015, PLAN 12.
2. "PLAN OF LAND IN CHELSEBURY & WESTFORD, MA, PREPARED FOR F.O. AGGERS, L.L.C., BY MICHAEL & SONNET CORNEILLE, INC., DATED JAN. 20, 2015, PLAN 13.
3. "PLAN OF LAND IN CHELSEBURY & WESTFORD, MA, PREPARED FOR F.O. AGGERS, L.L.C., BY MICHAEL & SONNET CORNEILLE, INC., DATED JAN. 20, 2015, PLAN 14.
4. "PLAN OF LAND, GROTON ROAD, CHELSEBURY & WESTFORD, MA, PREPARED FOR L.D. CORNEILLE BY MICHAEL & SONNET CORNEILLE, INC., DATED JAN. 20, 2015, PLAN 15.
5. "SITE PLAN, APARTMENT MANUFACTURING FACILITY, 540 GROTON ROAD, WESTFORD, MA, PREPARED FOR L.D. CORNEILLE BY MICHAEL & SONNET CORNEILLE, INC., DATED JAN. 20, 2015, PLAN 16.

RESERVED FOR REENTRY USE

- NOTES**
1. THE PURPOSE OF THIS PLAN IS TO CREATE AN EASEMENT AND CROSS ACCESS EASEMENT.
  2. THIS PLAN IS BASED ON THE REFERENCED PLANS, DEEDS, AND RECORDS. THE EASEMENT SHOWN IS INTENDED TO MEET THE REQUIREMENTS OF THE TOWN OF WESTFORD AND IS NOT A GUARANTEE TO THE TITLE OR INTERESTS OF ANY PARTY. THE EASEMENT IS SHOWN ACCORDING TO CURRENT ASSESSORS RECORDS.
  3. PLANNING INFORMATION SHOWN HEREON WAS OBTAINED FROM AN Aerial Survey CONDUCTED BY EASTERN AERIAL SURVEY, INC. ON 1/28/15 AND COMPLETED 1/28/15.



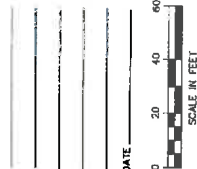




**SIGN SUMMARY**

- PS-1
- WB-5
- PS-1MCO
- RT-1

TOWN OF WESTFORD  
PLANNING BOARD APPROVAL



**NOTE**  
1. ENTRANCE MODIFICATION PLAN, AS APPROVED IN THE TOWN OF WESTFORD, MASSACHUSETTS, AND SIGNED BY THE TOWN ENGINEER, MAY 1, 2015.  
2. THE TOWN ENGINEER'S OFFICE HAS REVIEWED THE PLAN AND FOUND IT TO BE IN ACCORDANCE WITH THE MASSACHUSETTS REGULATION 809 CMR 1.00, WHICH GOVERNS THE DESIGN AND CONSTRUCTION OF PUBLIC WORKS.

Sheet	1 OF 1
Date	08-10-15
Drawn	08-10-15
By	08-10-15
Project	ASPHALT MANUFACTURING FACILITY
Location	540 GROTON ROAD, WESTFORD, MA
Scale	1" = 20'
Prepared for	HEMPHILL MATERIALS, LLC
Prepared by	HEMPHILL MATERIALS, LLC
Drawn	08-10-15
Check	08-10-15
DATE	08-10-15
BY	08-10-15